(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR SINGLE BENCH

WRIT PETITION NO. 1802 OF 2005

PETITIONER:

Santosh Das Diwan S/o- Shri Deepak Diwan Aged About- 35 Years, Occupation-Ex-Secretary Of Gram Panchayat Kothari, Janpad Panchayat Kartala, R/o- Village- Kothari, Thesil- Kartala, Distt. Korba (C.G.)

VERSUS

RESPONDENT (S):

1. State of Chhattisgarh Through it's Secretary Department of Panchayat D.K.S. Bhawan Raipur (C.G.)
2. Collector Distt. Korba (C.G.)
3. Sub Divisional Officer (Revenue/Prescribed Officer Panchayat) Distt. Korba (C.G.)
4. Chief Executive Officer Janpad Panchayat Kartala, Distt. Korba (C.G)
5. Raj Kumar Kurrey, S/o-Dile Ram Kurrey, Aged About- years, Occupation-Secretary Of n Panchayat Kothari, Janpad chayat Kartala, R/o- Village- nari, Thesil- Kartala, Distt. ba (C.G.

P.R. No. 1990/05 Vinay Pandey
Presented dated 02/05/05

Attested
6/2/06
A.R.(S)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS / CERTIORARI ETC. OR DIRECTION / ORDER IN THE LIKE NATURE.

Attested
N.(J)

As per Co.Di. 20/7/05 AMENDMENT INCORPORATED

6.

Gram Panchayat Kothari,
Janpad Panchayat Kartala,
District Korba (C.G.).

Amendment incorporated as per Co.Di. 21.11.05.

Pradhan

Attested

...e Sarpanch,
...am Panchayat, Kartala,
...npad Panchayat, Kotha-I,
...strict Korba (C.G.).

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HIGH COURT OF CHHATTISGARH AT BILASPUR
Writ Petition No. 1802 of 2005

Petitioner : Santosh Das Diwan

Versus

Respondents : State of Chhattisgarh & others

**Single Bench:** Hon'ble Mr. Justice **Satish K. Agnihotri.**

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Shri Vinay Pandey, counsel for the Petitioner.
Shri V.V.S. Moorthy, Dy. Advocate General with Shri Satish Gupta, Dy. Govt. Advocate for the respondents No. 1 to 3/State.
Shri C.R. Sahu, counsel for the respondent No. 6.

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ORDER

(Passed on 7th September, 2006)

1. The petitioner was appointed as Panchayat Karmi/Secretary by order dated 1.11.1995 of the Gram Panchayat, Kothari, District Korba.

2. Service of the petitioner was terminated from the post of Panchayat Karmi/Secretary by order dated 21.3.2005 (Annexure P/1) passed by the respondent No. 6 on the basis resolution passed in the meeting by the Gram Sabha.

3. Admittedly, the petitioner was not served any show cause notice or no enquiry was held as envisaged in Rule 7 of the Madhya Pradesh Panchayat Service (Discipline and Appeal) Rules, 1999 (for short 'The Rules, 1999'). It is further submitted that before imposing major penalties as specified

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in clause (iv) to (via) of rule 5, the procedure in Rule 7 of the Rules, 1999, has not been followed.

4. The Naib Tahsildar, who held the preliminary enquiry, by his report dated 14.7.2005 (Annexure R/3) found that there was no notice to the petitioner and no enquiry was held under Section 6 (1) of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (for short 'The Rules 1993').

5. In the present case, service of the petitioner has been terminated without following statutory procedure as prescribed in Rule 7 of the Rules 1999. Thus, the order is bad being contrary to the provisions of the Rules, 1999.

6. Accordingly, the order dated 21.3.2005 (Annexure P/1) passed by the Gram Panchayat, Kothari is quashed and the petitioner is entitled to all the benefits, pecuniary and otherwise. It is made clear that this order will not come in the way of the Respondent/Gram Panchayat or any other respondent, as the case may be, from initiating the disciplinary action against the petitioner for the alleged misconduct committed by him, if so advised, in accordance with law and in terms of the procedure prescribed in Rule 7 of the Rules, 1999.

Sd/-
Satish K. Agnihotri
Judge

Bablu